



General Assembly

January Session, 2001

Raised Bill No. 1393

LCO No. 4598

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

***AN ACT IMPLEMENTING THE LEGISLATIVE COMMISSIONERS'
RECOMMENDATIONS FOR TECHNICAL REVISIONS TO CERTAIN
INSURANCE AND REAL ESTATE STATUTES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-349 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) Each insurance company [which] that issues in this state
4 automobile liability policies as defined in section 38a-341 insuring
5 against loss resulting from liability for damages because of bodily
6 injury or death of any person and injury to or destruction of property
7 arising out of the ownership, maintenance or use of a specific motor
8 vehicle or motor vehicles [,] shall file with the Insurance Commissioner
9 the rules and regulations, or any modifications of such rules and
10 regulations, used by such company to determine whether or not to
11 underwrite such policies.

12 (b) Such rules and regulations, or modification of such rules and
13 regulations, shall be on file with the commissioner for a waiting period
14 of thirty days before they become effective. The commissioner may

15 extend the waiting period for an additional [extension] period not to
16 exceed thirty days if the commissioner gives the insurance company
17 that made the filing written notice within the waiting period. The
18 written notice shall indicate that the commissioner needs additional
19 time to consider the filing. Upon written application by such insurance
20 company, the commissioner may authorize a filing that the
21 commissioner has reviewed to become effective before the expiration
22 of the waiting period or any extension period. A filing shall be deemed
23 approved unless disapproved by the commissioner within the waiting
24 period or any extension period. If, within the waiting period or any
25 extension period, the commissioner disapproves the filing, the
26 commissioner shall send the insurance company that made such filing
27 written notice of disapproval, specifying the reasons for disapproval,
28 and stating that such filing shall not become effective. Such finding of
29 the commissioner shall be subject to review as provided in section 38a-
30 19.

31 Sec. 2. Subsection (b) of section 38a-689 of the general statutes is
32 repealed and the following is substituted in lieu thereof:

33 (b) Such rules and regulations, or modification of such rules and
34 regulations, shall be on file with the commissioner for a waiting period
35 of thirty days before they become effective. The commissioner may
36 extend the waiting period for an additional [extension] period not to
37 exceed thirty days if the commissioner gives the insurance company
38 that made the filing written notice within the waiting period. The
39 written notice shall indicate that the commissioner needs additional
40 time to consider the filing. Upon written application by such insurance
41 company, the commissioner may authorize a filing that the
42 commissioner has reviewed to become effective before the expiration
43 of the waiting period or any extension period. A filing shall be deemed
44 approved unless disapproved by the commissioner within the waiting
45 period or any extension period. If, within the waiting period or any
46 extension period, the commissioner disapproves the filing, the
47 commissioner shall send the insurance company that made such filing

48 written notice of disapproval, specifying the reasons for disapproval,
49 and stating that such filing shall not become effective. Such finding of
50 the commissioner shall be subject to review as provided in section 38a-
51 19.

52 Sec. 3. Subsection (c) of section 38a-476 of the general statutes is
53 repealed and the following is substituted in lieu thereof:

54 (c) All health insurance plans and insurance arrangements shall
55 provide coverage, under the terms and conditions of [its] their policies
56 or contracts, for the preexisting conditions of any newly insured
57 individual who was previously covered for such preexisting condition
58 under the terms of the individual's preceding qualifying coverage,
59 provided the preceding coverage was continuous to a date less than
60 one hundred twenty days prior to the effective date of the new
61 coverage, exclusive of any applicable waiting period, except in the case
62 of a newly insured group member whose previous coverage was
63 terminated due to an involuntary loss of employment, the preceding
64 coverage must have been continuous to a date not more than one
65 hundred fifty days prior to the effective date of the new coverage,
66 exclusive of any applicable waiting period, provided such newly
67 insured group member or dependent applies for such succeeding
68 coverage within thirty days of the member's or dependent's initial
69 eligibility.

70 Sec. 4. Subdivisions (1) to (3), inclusive, of subsection (d) of section
71 38a-488a of the general statutes are repealed and the following is
72 substituted in lieu thereof:

73 (1) A clinical social worker who is licensed under the provisions of
74 chapter 383b and who has passed the clinical examination of the
75 American Association of State Social Work Boards and has completed
76 at least two thousand hours of [the] post-master's social work
77 experience in a nonprofit agency qualifying as a tax-exempt
78 organization under Section 501(c) of the Internal Revenue Code of 1986
79 or any subsequent corresponding internal revenue code of the United

80 States, as from time to time amended, in a municipal, state or federal
81 agency or in an institution licensed by the Department of Public Health
82 under section 19a-490;

83 (2) A social worker who was certified as an independent social
84 worker under the provisions of chapter 383b prior to October 1, 1990;

85 (3) A licensed marital and family therapist who has completed at
86 least two thousand hours of [the] post-master's marriage and family
87 therapy work experience in a nonprofit agency qualifying as a tax-
88 exempt organization under Section 501(c) of the Internal Revenue
89 Code of 1986 or any subsequent corresponding internal revenue code
90 of the United States, as from time to time amended, in a municipal,
91 state or federal agency or in an institution licensed by the Department
92 of Public Health under section 19a-490.

93 Sec. 5. Subdivisions (1) to (3), inclusive, of subsection (d) of section
94 38a-514 of the general statutes are repealed and the following is
95 substituted in lieu thereof:

96 (1) A clinical social worker who is licensed under the provisions of
97 chapter 383b and who has passed the clinical examination of the
98 American Association of State Social Work Boards and has completed
99 at least two thousand hours of [the] post-master's social work
100 experience in a nonprofit agency qualifying as a tax-exempt
101 organization under Section 501(c) of the Internal Revenue Code of 1986
102 or any subsequent corresponding internal revenue code of the United
103 States, as from time to time amended, in a municipal, state or federal
104 agency or in an institution licensed by the Department of Public Health
105 under section 19a-490;

106 (2) A social worker who was certified as an independent social
107 worker under the provisions of chapter 383b prior to October 1, 1990;

108 (3) A licensed marital and family therapist who has completed at
109 least two thousand hours of [the] post-master's marriage and family

110 therapy work experience in a nonprofit agency qualifying as a tax-
111 exempt organization under Section 501(c) of the Internal Revenue
112 Code of 1986 or any subsequent corresponding internal revenue code
113 of the United States, as from time to time amended, in a municipal,
114 state or federal agency or in an institution licensed by the Department
115 of Public Health under section 19a-490.

116 Sec. 6. Section 38a-782a of the general statutes is repealed and the
117 following is substituted in lieu thereof:

118 The commissioner may adopt regulations, in accordance with
119 chapter 54, relating to the establishment of continuing education
120 requirements for persons licensed as [an insurance producer]
121 insurance producers, provided the commissioner shall suspend such
122 requirements for any person who is a public official during the period
123 such person serves as a public official, if the person is prohibited from
124 selling insurance during that period. As used in this section, "public
125 official" means any state-wide elected officer, any member or member-
126 elect of the General Assembly, or a senator or representative in
127 Congress.

128 Sec. 7. Section 38a-979 of the general statutes is repealed and the
129 following is substituted in lieu thereof:

130 (b) The notice shall be in writing and shall state: (1) Whether
131 personal information may be collected from persons other than the
132 individual proposed for coverage, (2) the types of personal information
133 that may be collected, the kinds of investigative techniques that may be
134 used to collect such information and the sources from which such
135 information may be collected, (3) the types of disclosures identified in
136 [subsections (b) to (f), inclusive, (i), (k), (l) and (n)] subdivisions (2) to
137 (6), inclusive, (9), (11), (12) and (14) of section 38a-988, as amended by
138 this act, and the circumstances under which such disclosures may be
139 made without prior authorization; provided only those circumstances
140 need be described which occur with such frequency as to indicate a
141 general business practice, (4) a description of the rights established

142 under sections 38a-983 and 38a-984 and the manner in which these
143 rights may be exercised, and (5) that information obtained from a
144 report prepared by an insurance-support organization may be retained
145 by the organization and disclosed to other persons.

146 Sec. 8. Section 38a-987 of the general statutes is repealed and the
147 following is substituted in lieu thereof:

148 No insurance institution or agent may base an adverse underwriting
149 decision in whole or in part:

150 [(a)] (1) On a previous adverse underwriting decision or on the fact
151 that an individual previously obtained insurance coverage through a
152 residual market mechanism, provided an insurance institution or
153 agent may base an adverse underwriting decision on further
154 information obtained from an insurance institution or agent
155 responsible for a previous adverse underwriting decision;

156 [(b)] (2) On personal information received from an insurance-
157 support organization whose primary source of information is an
158 insurance institution, provided an insurance institution or agent may
159 base an adverse underwriting decision on further personal information
160 obtained as the result of information received from an insurance-
161 support organization.

162 Sec. 9. Section 38a-988 of the general statutes is repealed and the
163 following is substituted in lieu thereof:

164 An insurance institution, agent or insurance-support organization
165 shall not disclose any personal or privileged information concerning
166 an individual collected or received in connection with an insurance
167 transaction unless the disclosure is:

168 [(a)] (1) Made with the written authorization of the individual,
169 provided: [(1)] (A) If such authorization is submitted by another
170 insurance institution, agent or insurance-support organization, it meets

171 the requirements of section 38a-981, or [(2)] (B) if such authorization is
 172 submitted by a person other than an insurance institution, agent or
 173 insurance-support organization, it shall be: [(A)] (i) Dated, [(B)] (ii)
 174 signed by the individual, and [(C)] (iii) obtained within one year prior
 175 to the date a disclosure is sought pursuant to this [subsection]
 176 subdivision; [or]

177 [(b)] (2) Made to a person other than an insurance institution, agent
 178 or insurance-support organization, provided such disclosure is
 179 reasonably necessary: [(1)] (A) To enable such person to perform a
 180 business, professional or insurance function for the disclosing
 181 insurance institution, agent or insurance-support organization, and
 182 such person agrees not to disclose the information without the
 183 individual's written authorization unless the disclosure: [(A)] (i)
 184 Would otherwise be permitted by this section if made by an insurance
 185 institution, agent, or insurance-support organization, or [(B)] (ii) is
 186 reasonably necessary for such person to perform [his] such person's
 187 function for the disclosing insurance institution, agent or insurance-
 188 support organization; or [(2)] (B) to enable such person to provide
 189 information to the disclosing insurance institution, agent or insurance-
 190 support organization for the purpose of: [(A)] (i) Determining an
 191 individual's eligibility for an insurance benefit or payment, or [(B)] (ii)
 192 detecting or preventing criminal activity, fraud, material
 193 misrepresentation or material nondisclosure in connection with an
 194 insurance transaction; [or]

195 [(c)] (3) Made to an insurance institution, agent, insurance-support
 196 organization or self-insurer, provided the information disclosed is
 197 limited to that which is reasonably necessary: [(1)] (A) To detect or
 198 prevent criminal activity, fraud, material misrepresentation or material
 199 nondisclosure in connection with insurance transactions, or [(2)] (B) for
 200 either the disclosing or receiving insurance institution, agent or
 201 insurance-support organization to perform its function in connection
 202 with an insurance transaction involving the individual; [or]

203 [(d)] (4) Made to a medical-care institution or medical professional
 204 for the purpose of: [(1)] (A) Verifying insurance coverage or benefits;
 205 [(2)] (B) informing an individual of a medical problem of which [he]
 206 such individual may not be aware; or [(3)] (C) conducting an
 207 operations or services audit, provided only such information is
 208 disclosed as is reasonably necessary to accomplish the foregoing
 209 purposes; [or]

210 [(e)] (5) Made to an insurance regulatory authority; [or]

211 [(f)] (6) Made to a law enforcement or other government authority:
 212 [(1)] (A) To protect the interests of the insurance institution, agent or
 213 insurance-support organization in preventing or prosecuting the
 214 perpetration of fraud upon it; or [(2)] (B) if the institution, agent or
 215 organization reasonably believes that illegal activities have been
 216 conducted by the individual; [or]

217 [(g)] (7) Otherwise permitted or required by law; [or]

218 [(h)] (8) In response to a facially valid administrative or judicial
 219 order, including a search warrant or subpoena; [or]

220 [(i)] (9) Made for the purpose of conducting actuarial or research
 221 studies, provided: [(1)] (A) No individual may be identified in any
 222 actuarial or research report; [(2)] (B) materials in which the individual
 223 may be identified are returned or destroyed as soon as they are no
 224 longer necessary; and [(3)] (C) the actuarial or research organization
 225 agrees not to disclose the information unless the disclosure would
 226 otherwise be permitted by this section if made by an insurance
 227 institution, agent or insurance-support organization; [or]

228 [(j)] (10) Made to a party or a representative of a party to a proposed
 229 or consummated sale, transfer, merger or consolidation of all or part of
 230 the business of the insurance institution, agent or insurance-support
 231 organization, provided: [(1)] (A) Prior to the consummation of the sale,
 232 transfer, merger or consolidation only such information is disclosed as

233 is reasonably necessary to enable the recipient to make business
234 decisions about the purchase, transfer, merger or consolidation; and
235 [(2)] (B) the recipient agrees not to disclose the information unless the
236 disclosure would otherwise be permitted by this section if made by an
237 insurance institution, agent or insurance-support organization; [or]

238 [(k)] (11) Made to a person whose only use of such information will
239 be in connection with the marketing of a product or service, provided:
240 [(1)] (A) No medical-record information, privileged information, or
241 personal information relating to an individual's character, personal
242 habits, mode of living or general reputation is disclosed, and no
243 classification derived from such information is disclosed; [(2)] (B) the
244 individual has been afforded an opportunity to indicate that [he] the
245 individual does not wish personal information disclosed for marketing
246 purposes and has given no indication that [he] the individual does not
247 wish the information disclosed; and [(3)] (C) the person receiving such
248 information agrees not to use it except in connection with the
249 marketing of a product or service; [or]

250 [(l)] (12) Made to an affiliate whose only use of the information will
251 be in connection with an audit of the insurance institution or agent or
252 the marketing of an insurance product or service, provided [(1)] (A)
253 with regard to individually identifiable medical records information,
254 written consent of the individual to whom the individually identifiable
255 medical record pertains is obtained prior to disclosure for marketing
256 purposes, and [(2)] (B) the affiliate agrees not to disclose the
257 information for any other purpose or to unaffiliated persons; [or]

258 [(m)] (13) Made by a consumer reporting agency, provided the
259 disclosure is made to a person other than an insurance institution or
260 agent; [or]

261 [(n)] (14) Made to a group policyholder for the purpose of reporting
262 claims experience or conducting an audit of the insurance institution's
263 or agent's operations or services, provided the information disclosed is
264 reasonably necessary for the recipient to conduct the audit; [or]

265 [(o)] (15) Made to a professional peer review organization for the
266 purpose of reviewing the service or conduct of a medical-care
267 institution or medical professional; [or]

268 [(p)] (16) Made to a governmental authority for the purpose of
269 determining the individual's eligibility for health benefits for which the
270 governmental authority may be liable; [or]

271 [(q)] (17) Made to a certificate holder or policyholder for the
272 purpose of providing information regarding the status of an insurance
273 transaction; [or]

274 [(r)] (18) Made to a lienholder, mortgagee, assignee, lessor or other
275 person shown on the records of an insurance institution or agent as
276 having a legal or beneficial interest in a policy of insurance, provided:
277 [(1)] (A) No medical-record information is disclosed unless the
278 disclosure would otherwise be permitted by this section; and [(2)] (B)
279 the information disclosed is limited to that which is reasonably
280 necessary to permit such person to protect its interests in such policy;
281 or

282 [(s)] (19) Made pursuant to section 53-445.

283 Sec. 10. Subsections (b) and (c) of section 20-325a of the general
284 statutes are repealed and the following is substituted in lieu thereof:

285 (b) No person, licensed under the provisions of this chapter, shall
286 commence or bring any action with respect to any acts done or services
287 rendered after October 1, 1995, as set forth in subsection (a), unless the
288 acts or services were rendered pursuant to a contract or authorization
289 from the person for whom the acts were done or services rendered. To
290 satisfy the requirements of this subsection any contract or
291 authorization shall: (1) Be in writing, (2) contain the names and
292 addresses of the real estate broker performing the services and the
293 name of the person or persons for whom the acts were done or services
294 rendered, (3) show the date on which such contract was entered into or

295 such authorization given, (4) contain the conditions of such contract or
296 authorization, (5) be signed by the real estate broker or the real estate
297 broker's authorized agent, (6) if such contract or authorization pertains
298 to any real property, include the following statement: "THE REAL
299 ESTATE BROKER MAY BE ENTITLED TO CERTAIN LIEN RIGHTS
300 PURSUANT TO SECTION 20-325a OF THE CONNECTICUT
301 GENERAL STATUTES", and (7) be signed by the person or persons for
302 whom the acts were done or services rendered or by an agent
303 authorized to act on behalf of such person or persons, pursuant to a
304 written document executed in the manner provided for conveyances in
305 section 47-5, except, if the acts to be done or services rendered involve
306 a listing contract for the sale of land containing any building or
307 structure occupied or intended to be occupied by no more than four
308 families, the contract or authorization shall be signed by the owner of
309 the real estate or by an agent authorized to act on behalf of such owner
310 pursuant to a written document executed in the manner provided for
311 conveyances in section 47-5.

312 (c) Notwithstanding the provisions of subsection (b) of this section,
313 no person licensed under the provisions of this chapter [] shall
314 commence or bring any action with respect to any acts done or services
315 rendered after October 1, 2000, in a commercial real estate transaction,
316 unless the acts or services were rendered pursuant to (1) a contract or
317 authorization meeting the requirements of subsection (b) of this
318 section, or (2) a memorandum, letter or other writing stating for whom
319 the licensee will act or has acted, signed by the party for whom the
320 licensee will act or has acted in the commercial real estate transaction,
321 the duration of the authorization and the amount of any compensation
322 payable to the licensee, provided (A) the licensee provides written
323 notice to the party, substantially similar to the following: "THE REAL
324 ESTATE BROKER MAY BE ENTITLED TO CERTAIN LIEN RIGHTS
325 PURSUANT TO SECTION 20-325a OF THE CONNECTICUT
326 GENERAL STATUTES", and (B) the notice is provided at or before the
327 execution of the contract, authorization, memorandum, letter or other
328 writing, and may be made part of the contract, authorization,

329 memorandum, letter or other writing.

330 Sec. 11. Subsection (r) of section 20-325a of the general statutes is
331 repealed and the following is substituted in lieu thereof:

332 (r) No broker is entitled to claim any lien under this section, unless,
333 after the broker is entitled to compensation, without contingencies []
334 other than closing or transfer of title, under the terms set forth in the
335 written contract and not later than three days prior to the later of the
336 date of the conveyance or lease as set forth in the real estate sales
337 contract or lease or the actual date of the conveyance or the date when
338 the tenant takes possession, the broker gives written notice of the claim
339 for lien to the owner of the real property and to the prospective buyer
340 or tenant that the broker is entitled to compensation under the terms
341 set forth in the written contract and intends to claim a lien on the real
342 property. The notice shall be served upon the owner and the
343 prospective buyer or tenant, by any indifferent person, state marshal
344 or other proper officer, by leaving with such owner and prospective
345 buyer or at their usual [place] places of abode a true and attested copy
346 thereof. When there are two or more owners, or two or more buyers,
347 the notice shall be served on each owner and on each buyer.

Statement of Purpose:

To make technical changes recommended by the Legislative
Commissioner's Office.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]